

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA,

15-cr-379 (PKC)

-against-

JUAN ORLANDO HERNANDEZ and JUAN
CARLOS BONILLA VALLADARES,

Defendants.

-----x
ORDER

CASTEL, U.S.D.J.

Cleared counsel for Juan Orlando Hernandez has submitted a letter requesting that the Court adjourn the upcoming classified hearing and set a new CIPA briefing schedule. The request is denied insofar as it requests an adjournment of the hearing and granted in part with respect to the briefing schedule.

The initial deadline for the government's CIPA motion was November 14, 2022. (ECF 445.) On September 19, 2022, citing voluminous discovery and the need for defense counsel to obtain the requisite security clearance, the parties jointly requested that the Court adjourn the trial, which was then scheduled to begin on January 17, 2023. (ECF 475.) With the defense's consent, the government also requested the Court adjourn its CIPA motion deadline from November 14, 2022, to February 1, 2023. (Id.) The Court adjourned the trial from January 17 to April 24, 2023, and extended the CIPA motion deadline to February 1, 2023. (ECF 476.) The trial was later adjourned from January 17, 2023, to September 18, 2023.

On March 14, 2023, the government submitted a letter, ex parte and under seal, requesting a further extension of the CIPA motion deadline. Counsel for Juan Orlando Hernandez opposed the government's "request to delay by 60 days," noting "the passage of

time” and the fact that “the government has had ample time and opportunity to meet the deadline set by the Court.” (ECF 535.) The Court rejected the government’s proposed deadline and imposed a tighter, bifurcated schedule. (Order of March 15, 2023, ECF 536.) The Order of March 15, 2023 directed the government to file its request with respect to “Group 1 Department(s) or Agenc(ies)” by April 14, and to file its request with respect to “Group 2 Department(s) or Agenc(ies)” by May 17, as those terms are defined in that Order.

The Court warned explicitly that any further extension request by the government “should be accompanied by an application to vacate the September 18, 2023 trial date.” (ECF 536.)

In its Order of May 3, 2023, the Court stated that the government’s April 14 ex parte, in camera, under seal submission advised that the government had supplied cleared defense counsel with substitutions for certain classified information. (ECF 555.) The Court instructed cleared counsel to submit any challenges to those substitutions, or any other matter related to classified material, in a submission under seal delivered to the Classified Information Security Officer (“CISO”) by May 26, 2023. (Id.) The government was given until June 20, 2023, to respond. (Id.) The Court also set a date for a classified hearing regarding the April 14 submission.

Cleared defense counsel did not deliver any such submission to the CISO by May 26, 2023. Now, in a letter dated June 15, 2023, she requests the Court set a new briefing schedule and adjourn the CIPA hearing. (ECF 564.) The letter explains that cleared counsel has been unable to prepare for the CIPA hearing and missed the May 26 deadline because she has been engaged in the pretrial hearing and trial on a case in the District of Columbia since “early May.” She advises that the government objects to the adjournment request.

In light of the several prior extensions of both the trial date and the CIPA briefing schedule, the fact that cleared counsel had the pertinent government substitutions in her possession by April 14, and the impending trial date, the request to adjourn the CIPA hearing is denied. Cleared defense counsel may submit any challenges to the government's substitutions or any other matter related to classified material by June 23, 2023. The government may respond by June 27, 2023.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
June 20, 2023